

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

ALLEN BEASLEY,

Petitioner,

VS.

RICK THALER,

Respondent.

§
§
§
§
§
§
§

CIVIL ACTION NO. C-10-400

MEMORANDUM OPINION AND ORDER DENYING WITHOUT PREJUDICE
PLAINTIFF'S MOTION FOR AN EVIDENTIARY HEARING AND FOR
COPIES OF DOCUMENTS


Petitioner has filed this petition pursuant to 28 U.S.C. § 2254, challenging the results of a disciplinary proceeding at TDCJ's McConnell Unit (D.E. 1). Service of process was ordered December 17, 2010, and Respondent's answer is due in early February 2011. Pending are petitioner's motions (1) for copies of documents (D.E. 7); and (2) for an evidentiary hearing (D.E. 8)

In petitioner's motion for copies, he seeks employee rosters and schedules of employee assignments, which is essentially a request for discovery. Leave of court is required to conduct discovery in a habeas case. Rule 6(a), Rules Governing Section 2254 Cases. Petitioner's request for discovery is premature. Respondent has not yet filed an answer, and the court cannot determine whether petitioner's request is relevant to the issues in the case. The motion (D.E. 7) is denied without prejudice.

Petitioner also requests an evidentiary hearing (D.E. 8). This request is also premature. The court will not determine whether an evidentiary hearing is necessary

until respondent files his answer and supporting materials. Rule 8(a), Rules Governing Section 2254 Cases. The motion (D.E. 8) is denied without prejudice.

ORDERED this 6th day of January, 2011.


B. JANICE ELLINGTON
UNITED STATES MAGISTRATE JUDGE